

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

10 ESTATE OF MARY L. MILES, BY AND
11 THROUGH ITS SPECIAL
12 ADMINISTRATORS (ROBERT E. MILES
AND HOWARD M. MILES),

13 Plaintiff,

14 vs.

15 ESTATE OF HELEN S. MCBAIN, CAROL
16 MERGEN, ALEXANDRA MERGEN,
ANDREW MERGEN, RBC DAIN
17 RAUSCHER INC., AND DOES 1-4
INCLUSIVE,

18 Defendants.

Case No. 2:08-cv-00740-LRH-PAL

**STIPULATION AND ORDER TO
PERMIT DEFENDANTS TO FILE A
BRIEF IN RESPONSE TO PLAINTIFF'S
REPLY TO DEFENDANT RBC DAIN
RAUSCHER INC.'S REPLY IN
SUPPORT OF ITS MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

19 Plaintiff, the Estate of Mary L. Miles, by and through its Special Administrators
20 ("Plaintiff"), and defendants RBC Dain Rauscher, Inc., n/k/a RBC Capital Markets Corporation
21 ("Dain Rauscher"); and the Estate of Helen S. McBain, Carol Mergen, Alexandra Mergen, and
22 Andrew Mergen (collectively, "McBain") stipulate and agree as follows:

- 23
- 24 1. Plaintiff filed its complaint captioned above (the "2008 Complaint") on June 9,
25 2008.
 - 26 2. On February 16, 2009, Dain Rauscher filed a Motion to Dismiss (Document 37).
 - 27 3. On March 23, 2009, Plaintiff filed its Memorandum in Opposition to Dain
28

1 Rauscher's Motion to Dismiss, and, in the Alternative, in Support of Plaintiff's Motion to
2 Amend (Document 48).

3 4. On April 14, 2009, Dain Rauscher filed its Reply in Support of Its Motion to
4 Dismiss Plaintiff's Complaint (Document 53).

5 5. On April 27, 2009, Plaintiff filed its Reply to RBC Dain Rauscher's Reply in
6 Support of Its Motion to Dismiss Plaintiff's Complaint (Document 55). Plaintiff attached to
7 this document a proposed amended complaint, titled "Amended Complaint."

8 6. Rather than contest the procedural correctness of the Plaintiff's April 27, 2009,
9 Reply (Document 55), Plaintiff, Dain Rauscher and McBain stipulate and agree as follows:
10

11 a. Dain Rauscher and McBain Trust have through and including Tuesday,
12 May 26, 2009 to file their responses to the Miles Estate's Reply to Defendant RBC Dain
13 Rauscher's Reply in Support of Its Motion to Dismiss Plaintiff's Complaint (Document 55).
14

15 b. Upon the filing of the responses from Dain Rauscher and McBain,
16 briefing shall be complete. The Motions to Dismiss of Dain Rauscher and McBain and the
17 Motion for Leave to Amend shall thereafter be complete for submission for the Court's rulings.
18
19
20
21
22
23
24
25
26
27
28

7. This stipulation is made in good faith and is not submitted for the purpose of delay.

FABIAN & CLENDENIN, P.C.

LEWIS AND ROCA LLP

By: /s/ Kevin N. Anderson

By: /s/ Von S. Heinz

KEVIN N. ANDERSON

VON S. HEINZ

Nevada Bar No. 4512

Nevada Bar No. 859

601 South Tenth Street #102

Suite 600

Las Vegas, Nevada 89101

3993 Howard Hughes Parkway

Attorney for Plaintiff

Las Vegas, Nevada 89169

Dated: May 6, 2009

Attorneys for Defendant

RBC DAIN RAUSCHER INC.

Dated: May 6, 2009

SOLOMON DWIGGINS & FREER

By: /s/ Jeffrey P. Luszeck

MARK A. SOLOMON

Nevada Bar No. 0408

DANA A. DWIGGINS

Nevada Bar No. 7049

JEFFREY P. LUSZECK

Nevada Bar No. 9619

Suite 240

7881 W. Charleston Blvd.

Las Vegas, Nevada 89117

Attorneys for Defendants

Helen Carol Mergen,

Individually, and as Trustee

Of the Helen S. McBain 2000

Living Trust, Alexandra

Mergen and Andrew Mergen

Dated: May 6, 2009

IT IS SO ORDERED this 8th day of May, 2009.



LARRY R. HICKS

UNITED STATES DISTRICT JUDGE